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(Billing Code 5001-06-P)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 201, 203, 204, 212, 213, 217, 219, 222, 225, 233, 243, 252, Appendix I to Chapter 2

RIN 0750-AH55

Defense Federal Acquisition Regulation Supplement: Title 41 Positive Law Codification—Further Implementation (DFARS Case 2012-D003)

AGENCIES: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement to conform statutory titles to the new Positive Law Codification of Title 41, United States Code, "Public Contracts."

DATES: Comment Date: Comments on the proposed rule should be submitted in writing to the address shown below on or before [Insert date 60 days after date of publication in the FEDERAL REGISTER], to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2012-D003,

using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2012-D003" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2012-D003." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2012-D003" on your attached document.
- o E-mail: dfars@osd.mil. Include DFARS Case 2012-D003 in the subject line of the message.
- o Fax: 703-602-0350.
- o Mail: Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(AT&L)DPAP/DARS, Room 3B855, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, telephone 703-602-0328.

SUPPLEMENTARY INFORMATION:

I. Background

On January 4, 2011, Public Law 111-350 enacted a new codified version of Title 41 United States Code (U.S.C.), entitled "Public Contracts." Title 41 U.S.C. citations were updated under DFARS Case 2011-D036 (76 FR 58137, September 20, 2011).

This case proposes to make further changes to the previous titles of Acts that have changed in titles 40 and 41 (comparable to the proposed Federal Acquisition Regulation (FAR) rule under FAR Case 2011-018), and other edits, as necessary.

II. Discussion and Analysis

DoD is updating the historical names of the Acts in the Defense Federal Acquisition Regulation Supplement (DFARS) (e.g., the "Service Contract Act of 1965" is now the "Service Contract Labor Standards statute"). A table providing the historical titles of the acts, the present statutory citation, and the new titles of the statutes is being proposed under FAR case 2011-018 for inclusion at FAR 1.110. That table will cover acts under both titles 40 and 41.

Although there were no substantive changes to the meaning of the statutes, there were some changes in terminology.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule does not change any policies or requirements. It just changes and updates references and terminology. Therefore, an initial regulatory flexibility analysis has not been performed. DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must

submit such comments separately and should cite 5 U.S.C 610 (DFARS Case 2012-D003), in correspondence.

V. Paperwork Reduction Act

The rule does not impose any new information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 201, 203, 204, 212, 213, 217, 219, 222, 225, 233, 243, 252, Appendix I

Government procurement.

Ynette R. Shelkin

Editor, Defense Acquisition Regulations System

Therefore, 48 CFR parts 201, 203, 204, 212, 213, 217, 219, 222, 225, 233, 243, 252, and Appendix I are proposed for amendment as follows:

1. The authority citation for 48 CFR parts 201, 203, 204, 212, 213, 217, 219, 222, 225, 233, 243, 252, and Appendix I continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

201.107 [Amended]

2. Section 201.107 is amended by removing from the introductory sentence "section 29 of the Office of Federal

Procurement Policy Act (41 U.S.C. 1304)" and adding "41 U.S.C. 1304" in its place.

201.304 [Amended]

3. Section 201.304 is amended by removing from introductory paragraph (2) "section 29 of the Office of Federal Procurement Policy Act (41 U.S.C. 1304)" and adding "41 U.S.C. 1304" in its place.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

203.070 [Amended]

4. Section 203.070 is amended by removing from paragraph (f) "Anti-kickback Act" and adding "Kickbacks" in its place.

203.502-2 [Amended]

5. Section 203.502-2 is amended by removing from introductory paragraph (h) "the Anti-Kickback Act of 1986" and adding "41 U.S.C. chapter 87, Kickbacks" in its place.

PART 204—ADMINISTRATIVE MATTERS

204.1202 [Amended]

6. Section 204.1202 is amended by—
a. Removing from paragraph (2)(v) "Buy American Act—Balance of Payments Program Certificate" and adding "Buy American—Balance of Payments Program Certificate" in its place;
and

b. Removing from paragraph (2)(ix) "Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate" and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place.

7 Section 204.7003 is amended by revising paragraph (a)(3)(vi) to read as follows:

204.7003 Basic PII number.

(a) * * *

(3) * * *

(vi) Contracting actions placed with or through other Government departments or agencies or against contracts placed by such departments or agencies outside the DoD (including actions from nonprofit agencies employing people who are blind or severely disabled (AbilityOne), and the Federal Prison Industries (UNICOR))--F

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PART 212--ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

8. Section 212.301 is amended by--

a. Removing from paragraph (f)(i)(A) "Buy American Act-Balance of Payments Program Certificate" and adding "Buy American-Balance of Payments Program Certificate" in its place; and

b. Removing from paragraph (f)(i)(C) "Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate"

and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place.

212.7102-1 [Amended]

9. Section 212.7102-1 is amended by removing from paragraph (e)(2) "section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 1502)" and adding "41 U.S.C. 1502" in its place.

PART 213-SIMPLIFIED ACQUISITION PROCEDURES

213.301 [Amended]

10. Section 213.301 is amended by removing from paragraph (1) "Continental Shelf lands" and adding "Continental Shelf" in its place.

213.302-5 [Amended]

11. Section 213.302-5 is amended by—

a. Removing from the first sentence of introductory paragraph (d) "Buy American Act-Supplies" and adding "Buy American-Supplies" and removing from the second sentence "Buy American Act" and adding "Buy American statute" in its place;

b. Removing from paragraph (d)(i) "Buy American Act and Balance of Payments Program" and adding "Buy American and Balance of Payments Program" in its place: and

c. Removing from paragraph (d)(ii) "Buy American Act-Free Trade Agreements-Balance of Payments Program" and adding "Buy American-Free Trade Agreements-Balance of Payments Program" in its place.

PART 217—SPECIAL CONTRACTING METHODS

217.7000 [Amended]

12. Section 217.7000 is amended by removing "Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384, as amended (40 U.S.C. 481(c))" and adding "40 U.S.C. 503" in its place.

PART 219—SMALL BUSINESS PROGRAMS

219.703 [Amended]

13. Section 219-703 is amended by removing from paragraph (a) "Javits-Wagner-O'Day Act (41 U.S.C. 8502-8504)" and adding "41 U.S.C. chapter 85" in its place.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

14. Subpart 222.3 is amended by revising the heading to read as follows:

SUBPART 222.3—CONTRACT WORK HOURS AND SAFETY STANDARDS

222.302 [Amended]

15. Section 222.302 is amended by removing from the introductory sentence "Contract Work Hours and Safety Standards Act" and adding "Contract Work Hours and Safety Standards" in its place.

16. Section 222.402-70 is amended by revising introductory paragraph (a), and paragraphs (b), (c), (d) (1) through (d) (3) and (f) to read as follows:

222.402-70 Installation support contracts.

(a) Apply both the Service Contract Labor Standards statute and the Construction Wage Rate Requirements statute to installation support contracts if—

* * * * *

(b) Service Contract Labor Standards statute coverage under the contract. Contract installation support requirements, such as plant operation and installation services (i.e., custodial, snow removal, etc.) are subject to the Service Contract Labor Standards. Apply Service Contract Labor Standards clauses and minimum wage and fringe benefit requirements to all contract service calls or orders for such maintenance and support work.

(c) Construction Wage Rate Requirements statute coverage under the contract. Contract construction, alteration, renovation, painting, and repair requirements (i.e., roof shingling, building structural repair, paving repairs, etc.) are subject to the Construction Wage Rate Requirements statute. Apply Construction Wage Rate Requirements clauses and minimum wage requirements to all contract service calls or orders for construction, alteration, renovation, painting, or repairs to buildings or other works.

(d) Repairs versus maintenance. Some contract work may be characterized as either Construction Wage Rate Requirements painting/repairs or Service Contract Labor Standards maintenance. For example, replacing broken windows, spot

painting, or minor patching of a wall could be covered by either the Construction Wage Rate Requirements or the Service Contract Labor Standards. In those instances where a contract service call or order requires construction trade skills (i.e., carpenter, plumber, painter, etc.), but it is unclear whether the work required is Service Contract Labor Standards maintenance or Construction Wage Rate Requirements painting/repairs, apply the following rules:

(1) Individual service calls or orders which will require a total of 32 or more work hours to perform shall be considered to be repair work subject to the Construction Wage Rate Requirements.

(2) Individual service calls or orders which will require less than 32 work hours to perform shall be considered to be maintenance subject to the Service Contract Labor Standards.

(3) Painting work of 200 square feet or more to be performed under an individual service call or order shall be considered to be subject to the Construction Wage Rate Requirements statute regardless of the total work hours required.

* * * * *

(f) Contracting officers may not avoid application of the Construction Wage Rate Requirements statute by splitting individual tasks between orders or contracts.

* * * * *

17. Section 222.404 is amended by revising the section heading to read as follows:

222.404 Construction Wage Rate Requirements statute wage determinations.

222.406-1 [Amended]

18. Section 222.406-1 is amended by—

a. Removing from paragraph (b) (1) (A) (1) "Davis Bacon Act" and adding "Construction Wage Rate Requirements statute" in its place; and

b. Removing from paragraph (b) (1) (A) (2) "Contract Work Hours and Safety Standards Act" and adding "Contract Work Hours and Safety Standards statute" in its place

222.406-8 [Amended]

19. Section 222.406-8 is amended by removing from introductory paragraph (c) (4) (A) "Contract Work Hours and Safety Standards Act (CWHSSA)" and adding "Contract Work Hours and Safety Standards (CWHSS) statute" in its place.

222-406-9 [Amended]

20. Section 222-406-9 is amended by removing from paragraph (a) "Davis-Bacon or CWHSSA" and adding "Construction Wage Rate Requirements or CWHSS statute" in its place.

222.406-13 [Amended]

21. Section 222.406-13 is amended by—

a. Removing from the introductory paragraph "Davis-Bacon Act and the CWHSSA" and adding "Construction Wage Rate Requirements statute and the CWSS statute" in its place;

b. Removing from paragraph (7)(i) "Davis-Bacon Act" and adding "Construction Wage Rate Requirements statute; and" in its place;

c. Removing from paragraph (7)(ii) "CWSSA" and adding "CWSS statute" in its place;

d. Removing from paragraph (8)(i) "Davis Bacon Act" and adding "Construction Wage Rate Requirements statute; and CWSS statute" in its place; and removing from paragraph (8)(ii) "CWHSSA" and adding "CWHSS statute" in its place;

e. Removing from introductory sentence (9) "CWHSSA" and adding "CWSS statute" in its place and from paragraph (9)(i) "; and";

f. Removing from paragraph (10)(i) "Davis-Bacon Act" and adding "Construction Wage Rate Requirements statute;" in its place; and removing from paragraph (10)(ii) "CWHSSA" and adding "CWSS statute; and" in its place.

22. Subpart 222.10 is amended by revising the subpart heading to read as follows:

SUBPART 222.10 SERVICE CONTRACT LABOR STANDARDS

23. Subpart 222.14 is amended by revising the subpart heading to read as follows:

SUBPART 222.14 EMPLOYMENT OF WORKERS WITH DISABILITIES

PART 225—FOREIGN ACQUISITION

225.003 [Amended]

24. Section 225.003 is amended by—

a. Removing from paragraph (4) "252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act-Free Trade Agreements-Balance of Payments Program" and adding "252.225-7001, Buy American and Balance of Payments Program; and 252.225-7036, Buy American-Free Trade Agreements-Balance of Payments Program" in its place; and

b. Removing from paragraph (11) "252.225-7001, Buy American Act and Balance of Payments Program; and 252.225-7036, Buy American Act-Free Trade Agreements-Balance of Payments Program" and adding "252.225-7001, Buy American and Balance of Payments Program; and 252.225-7036, Buy American-Free Trade Agreements-Balance of Payments Program" in its place.

25. Subpart 225.1 is amended by revising the subpart heading to read as follows:

SUBPART 225.1—BUY AMERICAN—SUPPLIES

225.103 [Amended]

26. Section 225.103 is amended by—

a. Removing from paragraph (a)(i)(B) "Buy American Act" and adding "Buy American statute" in its place; and

b. Removing from introductory paragraph (a)(ii)(A) "Subpart 225.5" and adding "subpart 225.5" in its place and removing "Buy American Act" and adding "Buy American statute" in its place.

225.502 [Amended]

27. Section 225.502 is amended by—

a. Removing from introductory paragraph (c), and (c)(iii)(C) "Buy American Act" and adding "Buy American statute" in its place;

b. Removing from paragraph (c)(i)(A) "Buy American Act" and "Buy American Act or Balance of Payments Program" and adding "Buy American statute" and "Buy American or Balance of Payments Program", respectively, in its place; and

c. Removing from paragraphs (c)(i)(B), (c)(ii)(C), (c)(ii)(D), and (c)(iii)(A) "Buy American Act or Balance of Payments Program" and adding "Buy American or Balance of Payments Program" in its place.

225.872-1 [Amended]

28. Section 225.872-1 is amended by removing from introductory paragraphs (a) and (b) "Buy American Act" and adding "Buy American statute" in its place.

225.872-4 [Amended]

29. Section 225.872-4 is amended by removing from introductory paragraph (a) "Buy American Act" and adding "Buy American statute" in its place.

30. Section 225.1101 is amended by—

a. Removing from paragraph (1)(i) in the first sentence "Buy American Act—Balance of Payments Program Certificate" and adding "Buy American—Balance of Payments Program Certificate" in its place and removing "FAR 52.225-2, Buy American Act Certificate" and adding "FAR 52.225-2, Buy American Certificate" in its place; and in the second sentence removing "Buy American Act and Balance of Payments Program" and adding "Buy American and Balance of Payments Program" in its place

b. Removing from introductory paragraph (2)(i) "Buy American Act and Balance of Payments Program" and adding "Buy American and Balance of Payments Program" in its place and removing "FAR 52.225-1, Buy American Act—Supplies" and adding "FAR 52.225-1, Buy American—Supplies" in its place;

c. Removing from paragraph (2)(i)(C) "Buy American Act" and adding "Buy American" in its place;

d. Removing from paragraph (2)(i)(D)(2) "Buy American Act—Free Trade Agreements—Balance of Payments Program" and adding "Buy American—Free Trade Agreements—Balance of Payments Program" in its place;

e. Removing from paragraph (3)(i) "Buy American Act and Balance of Payments Program" and adding "Buy American and Balance of Payments Program" in its place;

f. Removing from paragraph (3)(iii) "Buy American Act-Free Trade Agreements-Balance of Payments Program" and adding "Buy American-Free Trade Agreements-Balance of Payments Program" in its place; and

g. Revising paragraphs (10)(i), (11)(i), and (11)(iii) to read as follows:

225.1101 Acquisition of supplies.

* * * * *

(10)(i) Use the provision at 252.225-7035, Buy American-Free Trade Agreements-Balance of Payments Program Certificate, instead of the provision at FAR 52.225-4, Buy American-Free Trade Agreements-Israeli Trade Act Certificate, in solicitations that include the clause at 252.225-7036, Buy American-Free Trade Agreements-Balance of Payments Program.

* * * * *

(11)(i) Except as provided in paragraph (11)(ii) of this section, use the clause at 252.225-7036, Buy American-Free Trade Agreements-Balance of Payments Program, instead of the clause at FAR 52.225-3, Buy American-Free Trade Agreements-Israeli Trade Act, in solicitations and contracts for the items listed at 225.401-70, when the estimated value equals or exceeds \$25,000,

but is less than \$203,000, and a Free Trade Agreement applies to the acquisition.

* * * * *

(iii) The acquisition of eligible and noneligible products under the same contract may result in the application of a Free Trade Agreement to only some of the items acquired. In such case, indicate in the Schedule those items covered by the Buy American-Free Trade Agreements-Balance of Payments Program clause.

225.7000 [Amended]

31. Section 225.7000 is amended by removing from paragraph (b) "Buy American Act" and adding "Buy American" in its place.

PART 233-PROTESTS, DISPUTES, AND APPEALS

233.204-70 [Amended]

32. Section 233.204-70 is amended by removing "the Contract Disputes Act of 1978" and adding "41 U.S.C. chapter 71 (Contract Disputes)" in its place.

PART 243-CONTRACT MODIFICATIONS

243.204-71 [Amended]

33. Section 243.204-71 is amended at paragraph (c) by removing from the first sentence "the Contract Disputes Act of 1978 (41 U.S.C. 7103)" and adding "41 U.S.C. 7103, Disputes" in its place and removing from the second sentence "the Contract

Disputes Act" and adding "41 U.S.C. 7103, Disputes" in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.204-7007 [Amended]

34. Section 252.204-7007 is amended by—

- a. Removing the clause date "(NOV 2011)" and adding "(DATE)" in its place;
- b. Removing from paragraph (d)(2)(ii) "Buy American Act—Balance of Payments Program Certificate" and adding "Buy American—Balance of Payments Program Certificate" in its place; and
- c. Removing from paragraph (d)(2)(vi) "Buy American Act—Free Trade Agreements—Balance of Payments Program Certificate" and adding "Buy American—Free Trade Agreements—Balance of Payments Program Certificate" in its place.

252.212-7001 [Amended]

35. Section 252.212-7001 is amended by—

- a. Removing from paragraphs (b)(4), (b)(21), and (c)(4) the clause date "(SEP 2011)" and adding "(DATE)" in its place;
- b. Removing from paragraphs (b)(6)(i), (b)(12)(i), and (b)(15)(i) through (iv) the clause date "(OCT 2011)" and adding "(DATE)" in its place; and
- c. Removing from paragraph (b)(8) the clause date "(JAN 2011)" and adding "(DATE)" in its place.

252.212-7002 [Amended]

36. Section 252.212-7002 is amended by removing the clause date "(JUN 2011)" and adding "(DATE)" in its place and removing from paragraph (1) of the definition "Nontraditional defense contractor" "Section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. section 1502)" and adding "41 U.S.C. section 1502" in its place.

252.217-7002 [Amended]

37. Section 252.217-7002 is amended by removing the clause date "(DEC 1991)" and adding "(DATE)" in its place and removing from paragraph (a) "Section 201(c) of the Federal Property and Administrative Services Act of 1949, 63 Stat. 384 (40 U.S.C. 481(c))" and adding "40 U.S.C. 503" in its place.

252.219-7003 [Amended]

38. Section 252.219-7003 is amended by removing the clause date "(SEP 2011)" and adding "(DATE)" in its place, removing from introductory paragraph (e) "Section 831" and adding "section 831" in its place and adding at the end "to", and removing from paragraph (e)(1) "handicapped" and adding "disabled" in its place.

252.225-7000 [Amended]

39. Section 252.225-7000 is amended by removing "Act" from the section heading and provision title, removing the clause date "(DEC 2009)" and adding "(DATE)" in its place, and removing

from paragraphs (b) (2) and introductory paragraph (c) (1) "Buy American Act" and adding "Buy American statute" in its place.

40. Section 252.225-7001 is amended by—

a. Revising the section heading, clause title, and clause date;

b. Removing from paragraph (ii) of the definition "Commercially available off-the-shelf (COTS) item", "section 3 of the Shipping Act of 1984 (46 U.S.C. 40102)" and adding "46 U.S.C. 40102(4)" in its place;

c. Removing from paragraph (ii) (A) (2) of the definition "Domestic end product" "Buy American Act" and adding "Buy American statute" in its place;

d. Removing from paragraph (b) in the first sentence "the Buy American Act (41 U.S.C chapter 83)" and adding "41 U.S.C chapter 83, Buy American" in its place, and in the second sentence "Buy American Act" and adding "Buy American statute" in its place; and

e.. Removing from paragraph (c) "Buy American Act—Balance of Payments Program Certificate" and adding "Buy American—Balance of Payments Program Certificate" in its place.

The revisions read as follows:

252.225-7001 Buy American and Balance of Payments Program.

* * * * *

BUY AMERICAN AND BALANCE OF PAYMENTS PROGRAM (DATE)

* * * * *

252.225-7009 [Amended]

41. Section 252.225-7009 is amended by removing the clause date "(JAN 2011)" and adding "(DATE)" in its place and removing from paragraph (a)(4)(ii) "section 3 of the Shipping Act of 1984 (46 U.S.C. App 1702)" and adding "46 U.S.C. 40102(4)" in its place.

42. Section 252.225-7013 is amended by—

a. Removing the clause date "(DEC 2009)" and adding "(DATE)" in its place, removing the numbers in front of each definition at paragraph (a) and revising paragraphs (ii) and (iii) of the definition "Eligible product" and the definition "Qualifying country" and "qualifying country end product" to read as follows:

252.225-7013 Duty-Free Entry.

* * * * *

Eligible product means—* * *

(ii) Free Trade Agreement country end product, other than a Bahrainian end product, a Moroccan end product, or a Peruvian end product, as defined in the Buy American—Free Trade Agreements—Balance of Payments Program clause of this contract;
or

(iii) Canadian end product as defined in Alternate I of the Buy American–Free Trade Agreements–Balance of Payments Program clause of this contract.

Qualifying country and qualifying country end product have the meanings given in the Trade Agreements clause, the Buy American and Balance of Payments Program clause, or the Buy American–Free Trade Agreements–Balance of Payments Program clause of this contract.

252.225-7021 [Amended]

43. Section 252.225-7021 is amended by removing the clause date "(OCT 2011)" and adding "(DATE)" in its place and removing from paragraph (ii) of the definition "Commercially available off-the-shelf (COTS) item" "section 4 of the Shipping Act of 1984 (46 U.S.C. 40102)" and adding "46 U.S.C. 40102(4)" in its place.

44. Section 252.225-7035 is amended by–

a. Revising the section heading, provision title, and clause date;

b. Removing from paragraph (a) "Buy American Act–Free Trade Agreements–Balance of Payments Program" and adding "Buy American–Free Trade Agreements–Balance of Payments Program" in its place;

c. Removing from paragraph (b)(2) "Buy American Act" and adding "Buy American" in its place;

d. Removing from ALTERNATE II the clause date "(DEC 2010)" and adding "(DATE)" in its place and in paragraph (b)(2) removing "Buy American Act" and adding "Buy American" in its place;

e. Removing from ALTERNATE III the clause date "(DEC 2010)" and adding "(DATE)" in its place, removing from paragraph (a) "Buy American Act-Free Trade Agreements-Balance of Payments Program" and adding "Buy American-Free Trade Agreements-Balance of Payments Program" in its place, and removing from paragraph (b)(2) "Buy American Act" and adding "Buy American" in its place.

The revisions read as follows:

252.225-7035 Buy American-Free Trade Agreements-Balance of Payments Program Certificate.

* * * * *

BUY AMERICAN-FREE TRADE AGREEMENTS-BALANCE OF PAYMENTS PROGRAM
CERTIFICATE (DATE)

* * * * *

45. Section 252.225-7036 is amended by-

a.. Revising the section heading, clause title, and clause date;

b. Removing from paragraph (ii) of the definition "Commercially available off-the-shelf (COTS) item", "section 3

of the Shipping Act of 1984 (46 U.S.C. 40102)" and adding "46 U.S.C. 40102(4)" in its place;

c. Removing from paragraph (ii)(A)(2) of the definition for "Domestic end product", "Buy American Act" and adding "Buy American statute" in its place;

d. Removing from paragraph (c) "Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate" and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place;

e. Removing from ALTERNATE I the clause date "(OCT 2011)" and adding "(DATE)" in its place and removing from paragraph (c) "Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate" and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place;

f. Removing from Alternate II the clause date "(OCT 2011)" and adding "(DATE)" in its place and removing from paragraph (c) "Buy American Act-Free Trade Agreements-Balance of Payments Program Certificate" and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place; and

g. Removing from ALTERNATE III the clause date "(OCT 2011)" and adding "(DATE)" in its place and removing from paragraph (c) "Buy American Act-Free Trade Agreements-Balance of

Payments Program Certificate" and adding "Buy American-Free Trade Agreements-Balance of Payments Program Certificate" in its place.

The revisions read as follows:

252.225-7036 Buy American-Free Trade Agreements-Balance of Payments Program.

* * * * *

BUY AMERICAN-FREE TRADE AGREEMENTS-BALANCE OF PAYMENTS PROGRAM

(DATE)

* * * * *

252.225-7044 [Amended]

46. Section 252.225-7044 is amended by removing the clause date "(DEC 2010)" and adding "(DATE)" in its place and removing from paragraph (2) of the definition "Commercially available off-the-shelf (COTS) item" "in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102" and adding "46 U.S.C. 40102(4)" in its place.

47. Section 252.227-7037 is amended by removing the clause date "(SEP 2011)" and adding "(DATE)" in its place, removing from paragraph (e)(3) "the Contract Disputes Act of 1978 (41 U.S.C. 7101)" and adding "41 U.S.C. 7101, Contract Disputes" in its place, and removing from paragraph (g)(2)(iv) "Contract Disputes Act" and adding "Contract Disputes statute" in its place.

252.227-7038 [Amended]

48. Section 252.227-7038 is amended by removing the clause date "(DEC 2007)" and adding "(DATE)" in its place and removing from paragraph (1)(2)(ii) "Contract Disputes Act" and adding "Contract Disputes statute" in its place.

252.244-7001 [Amended]

49. Section 252.244-7001 is amended by removing the clause date "(MAY 2011)" and adding "(DATE)" in its place and removing from paragraph (c)(17) "the Anti-Kickback Act" and adding "41 U.S.C. chapter 87, Kickbacks" in its place.

**APPENDIX I—POLICY AND PROCEDURES FOR THE DOD PILOT MENTOR-
PROTEGE PROGRAM**

50. Section I-101.4 is revised to read as follows:

I-101.4 Severely disabled individual.

An individual who has a physical or mental disability which constitutes a substantial handicap to employment and which, in accordance with criteria prescribed by the Committee for

Purchase from People Who Are Blind or Severely Disabled
established by the first section of the Act of June 25, 1938 (41
U.S.C. 8502), is of such a nature that the individual is
otherwise prevented from engaging in normal competitive
employment.

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